

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DUSTIN E. MCGUIRE,

Petitioner,

v.

CAUSE NO. 3:22-CV-343-JD-MGG

WARDEN,

Respondent.

OPINION AND ORDER

Dustin E. McGuire, a prisoner without a lawyer, filed a habeas corpus petition challenging the disciplinary decision (ISP-22-1-31) at the Indiana State Prison in which a disciplinary hearing officer (DHO) found him guilty of filing a frivolous claim in violation of Indiana Department of Correction Offense 243. Following a hearing, he was sanctioned with a loss of ninety days earned credit time, but the sanctions and the disciplinary charge were dismissed on administrative appeal. Pursuant to Section 2254 Habeas Corpus Rule 4, the court must dismiss the petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

“[A] habeas corpus petition must attack the fact or duration of one’s sentence; if it does not, it does not state a proper basis for relief under § 2254.” *Washington v. Smith*, 564 F.3d 1350, 1351 (7th Cir. 2009). McGuire’s claims do not relate to the fairness of the disciplinary hearing or the sanctions affecting the fact or duration of his sentence but instead focus on the loss of his job as a consequence of the now-vacated disciplinary

decision. Because McGuire's claims do not relate to the fact or duration of his sentence, the court cannot grant him habeas relief.

If McGuire wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court*, 569 F.3d 665, 666 (7th Cir. 2009). However, he may not proceed in forma pauperis on appeal because the court finds pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith.

For these reasons, the court:

- (1) DENIES the habeas corpus petition (ECF 1);
- (2) DIRECTS the clerk to enter judgment and close this case; and
- (3) DENIES Dustin McGuire leave to proceed in forma pauperis on appeal.

SO ORDERED on May 4, 2022

/s/JON E. DEGUILIO
CHIEF JUDGE
UNITED STATES DISTRICT COURT